

**REMARKS**

Applicants have now had an opportunity to carefully consider the Examiner's comments set forth in the Office Action of December 4, 2009.

Reconsideration of the Application is requested.

Claims 34-45 are currently pending.

Claims 1-24 are cancelled.

Claims 25-33 are withdrawn.

**The Office Action**

Claims 34 – 45 have been rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 2002/0049839 to Miida in view of U.S. Patent No. 7,126,716 to Kaufman, et al., in further view of U.S. Patent No. 7,715,039 to Zimmerman et al.

The present application sets forth a system and method of a low cost embedded platform for the management of peripheral device distributed services. The system and method employs a browser based user interface to remotely perform customer management of self help of customization and for enhancement of services provided to peripheral devices. The present application is also software platform independent and may be run anywhere. The peripheral devices are active participants in the process, as opposed to being passive data repositories in strict client/server architectures (see paragraphs [0064] – [0065] of the application as filed).

Accordingly, claim 34 sets forth a system for interfacing peripheral hardware devices with a controller comprising, *inter alia*, a services layer, a common device modeling agent, and a device independent services environment for executing software to perform services at run time. The peripheral hardware device performs functions in response to the execution of the software, including initiating additions of service upgrades for maintenance thereof.

On page 6 of the Office Action dated June 23, 2010, the Examiner correctly notes that neither Miida nor Kaufmann teaches a device that initiates service upgrades, as set forth in claim 34. The Examiner relies exclusively on Zimmerman for teaching this feature.

Zimmerman discloses a printer cable that is configured for coupling to a printer having an enclosure and a printer port. The printer cable includes a first connector for connecting to the printer port and second connector for connecting to a host device. The printer cable further includes a printer formatter for providing formatting services to the printer via the first connector. Since the printer formatter is integrated into the printer cable, the printer formatter is external to the printer enclosure and is easily removable and configurable by a user (see Abstract).

In column 9, lines 23-43, Zimmerman sets forth the details of an upgrade module 350. According to the Examiner, the disclosure of Zimmerman relating to the upgrade module 350 teaches, as set forth in claim 34, a peripheral hardware device that performs functions in response to the execution of the software, including initiating additions of service upgrades for maintenance thereof. Applicants respectfully disagree.

With reference to Fig. 2 of Zimmerman reproduced below, it should be readily apparent that the host device 110 is connected to the Office Machine 120 via cable 130. Host device 110 includes printing software "PS" 274 and is connected to a web server 280 via an internet connection.

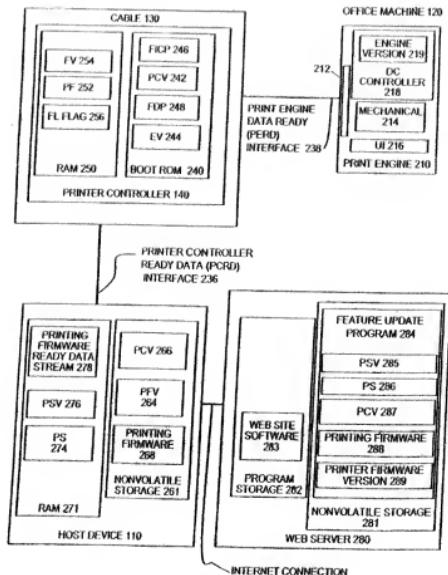


FIG. 2

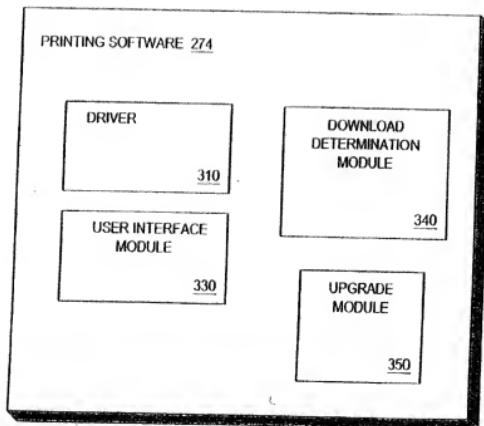
In column 9, lines 30-43 Zimmerman sets forth:

*In the preferred embodiment, the present invention provides a mechanism (e.g. upgrade module 350) to dynamically update the printer controller 140 with a modified printer controller program (e.g., a more current or up-to-date version) without user intervention and a mechanism to dynamically update a current printing software 274 resident on the host 110 with a modified printing software 286 (more current version) without user intervention.*

*It is noted that the update module 350 can also automatically update the printer firmware 268 with a more recent version, such as printer firmware 288. Subsequently, the updated firmware can be*

*automatically downloaded to the printer controller 140.*

With reference to Fig. 4 (reproduced below), it is noted that the update (or upgrade) module 350 is a component of the printing software 274 which resides within the host 110.



Accordingly, Zimmerman appears to disclose that the upgrade module 350 is configured to initiate an upgrade, which can include an upgrade of the controller program and/or the printing firmware 248 of the host 110.

Zimmerman does not, however, disclose a peripheral device that performs functions in response to the execution of software, including initiating additions of service upgrades for maintenance thereof.

First, the host device 110 includes the upgrade module 350. The term "host device", used by Zimmerman, makes clear that device 110 is not a peripheral device.

Second, while Zimmerman discloses updating the controller 140 via the upgrade

module 350, the controller 140 is not a peripheral device. In this regard, it is noted that claim 34 is directed to a system for interfacing peripheral hardware devices with a controller. Thus, it is respectfully submitted that the controller itself is not a peripheral device.

Moreover, even if the controller 140 is considered a peripheral device, the controller 140 does not initiate the upgrade. Rather, any upgrade of the controller 140 is initiated by the upgrade module 350 of the host device 110. Thus, Zimmerman still fails to disclose all the features of claim 34.

In view of the foregoing, it is respectfully submitted that Zimmerman fails to disclose a peripheral device that performs functions in response to the execution of software, including initiating additions of service upgrades for maintenance thereof, and therefore Zimmerman fails to overcome the deficiencies of either Miida or Kaufmann.

Accordingly, claim 34, and claims 35-39 dependent thereon, are believed to be patentable over Miida in view of Kaufmann in further view of Zimmerman.

The arguments made with respect to claims 34-39 are equally applicable to the similar rejections of claims 40, 41, 42-45 and thus the same arguments are made with respect to the same rejections presented by the Examiner.

CONCLUSION

For the reasons detailed above, it is submitted all remaining claims (Claims 34-45) are now in condition for allowance. The foregoing comments do not require unnecessary additional search or examination.

Remaining Claims, as delineated below:

| (1) FOR            | (2) CLAIMS REMAINING AFTER<br>AMENDMENT LESS HIGHEST NUMBER<br>PREVIOUSLY PAID FOR | (3) NUMBER EXTRA |
|--------------------|--|------------------|
| TOTAL CLAIMS       | 12   | - 20 = 0         |
| INDEPENDENT CLAIMS | 3  | - 3 = 0          |

This is an authorization under 37 CFR 1.136(a)(3) to treat any concurrent or future reply, requiring a petition for extension of time, as incorporating a petition for the appropriate extension of time.

Payment for the required three-month extension of time fees are being charged to a Credit Card via the EFS Web.

The Commissioner is hereby authorized to charge any filing or prosecution fees which may be required, under 37 CFR 1.16, 1.17, and 1.21 (but not 1.18), or to credit any overpayment, to Deposit Account 24-0037.

In the event the Examiner considers personal contact advantageous to the disposition of this case, he/she is hereby authorized to call Patrick R. Roche, at Telephone Number (216) 363-9000.

Respectfully submitted,

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